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IAA ADVISER ADVOCACY DAY
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Making Advisers' Voices Heard on Capitol Hill



Investment Adviser Regulatory Flexibility Improvement Act

On May 1, House Financial Services Committee Vice Chair Michael San Nicolas (D-Guam) and senior committee Republican Bill Huizenga (R-Mich.) introduced H.R. 2436, the "Investment Adviser Regulatory Flexibility Improvement Act." This bill had been approved 406-4 by the House as part of its JOBS Act 3.0 package in the last Congress but was not acted upon in the Senate.

The Investment Adviser Regulatory Flexibility Improvement Act is strongly supported by the IAA. It would ensure that the SEC gives appropriate consideration in its rulemakings to the regulatory burdens faced by small investment advisers as contemplated under the Regulatory Flexibility Act. Unfortunately, this Act is effectively rendered inapplicable to advisers due to the SEC's overly narrow definition of "small entities."

The SEC currently considers small entities to include only investment advisory firms with less than \$25 million in assets under management (AUM). Given that the basic threshold for SEC registration is \$100 million, few SEC-registered advisers are deemed to be "small" for purposes of the Regulatory Flexibility Act – even though more than 7,000 registered advisory firms employ 10 or fewer non-clerical employees.

The IAA believes that the SEC should conduct its economic analysis of the impact of regulations on smaller advisers and better tailor both regulations and guidance as advisers have been significantly burdened in recent years by the cumulative impact of regulations that have required substantial investments in infrastructure, technology, and systems that are disproportionate to the size and nature of their businesses and that are without commensurate benefit to investor protection.

The Investment Adviser Regulatory Flexibility Improvement Act would require the SEC to develop an alternative method for classifying advisers as small entities, taking into account the number of non-clerical employees at the firm. It would not limit the SEC's rulemaking authority or mandate any specific rules. The SEC would, however, have to better assess the impact of its regulations on firms that are truly small businesses and give greater consideration to appropriate alternatives that would minimize unnecessary burdens.

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